

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

V.

AUGUST DALLAS,

Defendant.

Case No. 8:06CR78

ORDER

This matter is before the court on the defendant's Motion to Determine Mental Competency pursuant to 18 U.S.C. § 4241 [#12]. The motion was heard on May 8, 2006. Appearing at the hearing were the Defendant and Steven E. Achepohl, his counsel, and Christian Martinez, Assistant United States Attorney.

An evidentiary hearing was conducted in accordance with 18 U.S.C. § 4247(d). The defendant offered the psychiatric report and evaluation (Ex.1) of August Dallas by psychiatrist Bruce D. Gutnik, M.D., M.D., Omaha, Nebraska, dated April 26, 2006. There were no objections to the report and it was received into evidence. No other evidence was offered by either side.

The Gutnik report concludes that it is his recommendation that Mr. Dallas be committed for further evaluation and treatment for restoration of competency pursuant to Title 18, U.S.C. § 4241(d).

Based upon the evidence presented at the hearing, I find by a preponderance of the evidence that the defendant, August Dallas, is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand

the nature and consequence of the proceeding against him, or to assist properly in his defense. Accordingly, the defendant will be committed to the custody of the Attorney General for hospitalization and treatment in accordance with 18 U.S.C. § 4241(d).

IT IS ORDERED:

1. The defendant's Motion to Determine Mental Competency [#12] is granted.
2. The defendant, August Dallas, is not presently competent to stand trial and he is committed under Title 18 U.S.C. § 4241(d) to the custody of the Attorney General for hospitalization and treatment in a suitable facility for such a reasonable time, not to exceed four months, as is necessary to determine whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit the trial to proceed; and for additional reasonable periods of time until his mental condition is so improved the trial may proceed, if the court finds there is a substantial probability that within such additional period of time he will obtain the capacity to permit the trial to proceed or pending charges against him are disposed of according to law, whichever is earlier.

Dated this 11th day of May 2006.

BY THE COURT:

S/ F.A. Gossett
United States Magistrate Judge